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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,174	09/18/2003	Mallikarjun Chadalapaka	200312982-1	8720

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EXAMINER

DAILEY, THOMAS J

ART UNIT	PAPER NUMBER
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2152

NOTIFICATION DATE	DELIVERY MODE
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04/09/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
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<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/666,174	Applicant(s) CHADALAPAKA, MALLIKARJUN	
	Examiner THOMAS J. DAILEY	Art Unit 2152	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-23.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☒ Other: See Continuation Sheet.

/Bunjob Jaroenchonwanit/
Supervisory Patent Examiner, Art Unit 2152

Continuation of 5. Applicant's reply has overcome the following rejection(s): The applicant's entered and submitted amendments have overcome U.S.C. 101 and 112 2nd paragraph rejections directed at claim 23 (see paragraphs 9, 20, and 21 of the action dated 11/28/2007, further elaboration is given below with regards to the withdrawn 112 2nd paragraph rejections of claim 23).

Continuation of 13. Other:

The applicant argues that the 112 1st paragraph rejections directed at claims 1-15 are improper as the applicant believes that one skilled in the art is enabled by the disclosure to make and use the claimed invention without undue experimentation.

The examiner disagrees and the rejections are maintained. For example, claim 1 recites, "receiving the request for the data transfer from the first protocol" (line 8), "sending a performance request corresponding to the request for a data transfer to a third protocol" (lines 11-12), and "sending an acknowledgement to the first protocol upon the occurrence of the event" (lines 16-17). One of ordinary skill in the art defines a protocol as a set of rules governing the format of messages that are exchanged between computers, and the protocols used in the specification and claims (iSCSI (claim 2), iSER (claim 3), and RDMA (claim 6)) fit with this definition. These specific protocols and protocols in general do not generate, send, or receive requests, nor do they determine what a request contains. Internet Small Computer Interface (iSCSI), for example, is network protocol standard that defines standards that allow SCSI protocol communication over TCP/IP networks. Further the applicant has provided not specific citations in the filed application to indicate that such a use of protocols is enabled by the specification.

The applicant argues that the 112 2nd paragraph rejections directed at claims 1-15 (see paragraphs 16, 18, and 22 of action dated as 11/28/2007) are improper as the claims are definite.

The examiner disagrees and the rejections are maintained. For example, claim 1 recites, "receiving the request for the data transfer from the first protocol" (line 8), "sending a performance request corresponding to the request for a data transfer to a third protocol" (lines 11-12), and "sending an acknowledgement to the first protocol upon the occurrence of the event" (lines 16-17). It is unclear how a protocol, defined to one of ordinary skill in the art as a set of rules governing the format of messages that are exchanged between computers, can generate, send, or receive requests or determine what a request contains. Protocols do not physically do anything; they are essentially a data structure.

The applicant argues that the additional 112 2nd paragraph rejections directed at claims 1-15 and 23 (see paragraphs 17, 19, 20, and 22 of action dated as 11/28/2007) are improper as functional language does not, in and of itself, render a claim improper.

The examiner agrees and withdraws these grounds of rejections, but additionally notes claims 1-15 remain rejected under 112 2nd as outlined above and as the amendment has corrected the additional 112 2nd rejection directed at claim 23 (see paragraph 21 of action dated 11/28/2007), claim 23 no longer stands rejected under U.S.C. 112 2nd paragraph. The examiner additionally reminds the applicant with regards to intended use limitations such as those in the pending claims and its interpretation vis-à-vis prior art that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

The applicant's arguments with regards to the prior art rejections of claims 1-23 are not persuasive and directs the applicant to the rejections presented in the previous action (dated 11/28/2007).

Therefore, the rejections pending are as follows:

Claims 1-15 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

Claims 1-15 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-6, 8-18, and 20-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta et al (US Pub No. 2004/0156393 in view of Fukae et al (US Pub. No. 2002/0199051).

Claims 7 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta in view of Fukae, as applied to claims 8 and 16, in further view of Cheriton et al (US Pat. 6,675,200).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.